

REMARKS**Pending Claims**

In this application, claims 4, 5, 8, 10, 12-14, 16-23 and 27-29 are currently pending. Claim 13 is amended herein. Entry of these amendments and reconsideration of previously rejected claims 13 and 14 is respectfully requested.

Allowed

The Applicant notes with appreciation that the Examiner has found claims 4, 5, 8, 10, 12, 16-23 and 27-29 to be allowable.

Rejection under 35 U.S.C. §102(b)

The Examiner has rejected claims 13 and 14 as being anticipated by Richart, U.S. Pat. No. 5,810,806. Claim 13 is amended herein to recite that the "distal opening is completely closeable by means of a closure". Richart '806 does not show or suggest the closing of its distal aperture 38. The Examiner cites element "46" as being a closure, however, element 46 is "a flexible sampling device". The Examiner further cites FIG. 8 of Richart 5,649,547; however, no element 46 is presented there. Further, the FIG. 8 embodiment of Richart '547 fails to show other elements recited in claim 13, such as "an electrically conductive ring-shaped or loop-shaped cutting element is adapted to be extended from the hollow body and is adapted to be applied to an HF-voltage source, for electrosurgically cutting out tissue in the area around the distal opening of the hollow body". Thus, the Applicant submits that neither Richart '806 nor Richart '547 shows the recited structure.

Still further, there would be no reason to incorporate an aperture-closing feature from Richart '547 with Richart's '806 device. The purpose of closing off the tissue receiving port 28 in Richart '547, is for "preventing snagging and tearing of the tissue during slow linear movement of the needle 20". Col 8, lines 49-51. The reason for this danger is that the cannular inner cutter 22 of Richart '547 is sharp, for mechanical cutting or slicing of tissue. In contrast, Richart '806 does not have a blade cutter from which tissue would need to be protected during positioning of the needle.

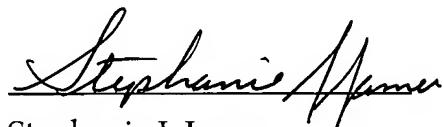
Therefore, the Applicant respectfully submits that claims 13 and 14 are patentable distinguishable over the prior art.

CONCLUSION

All of the claims remaining in this application should now be seen to be in condition for allowance. The prompt issuance of a notice to that effect is solicited.

Respectfully submitted,
Kai Designer,
By his attorneys:

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